



PATENT  
Customer No. 22,852  
Attorney Docket No. 08350.1367-01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Scott A. LEMAN ) Group Art Unit: 3748  
Application No. 10/788,431 ) Examiner: Kyle M. RIDDLE  
Filed: February 27, 2004 ) Confirmation No. 7015  
For: ENGINE VALVE ACTUATOR )  
)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Assignee, Caterpillar Inc., duly organized under the laws of Delaware and having its principal place of business at 100 N.E. Adams Street, Peoria, Illinois 61629-6490, represents that it is the assignee of the entire right, title and interest in and to the above-identified application, Application No. 10/788,431, filed February 27, 2004 for ENGINE VALVE ACTUATOR in the name of Scott A. Leman, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 015492, Frame 0967 on June 21, 2004. Assignee, Caterpillar Inc., further represents that it is the assignee of the entire right, title and interest in and to U.S. Patent No. 6,732,685, as indicated by assignment(s) duly recorded in the United States Patent and Trademark Office at Reel 012911, Frame 0326 on May 20, 2002.

To obviate a double patenting rejection, assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,732,685. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee payment of \$130.00 is being filed with this disclaimer.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916.

The undersigned is an agent of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 21, 2005

By: Ryan C. Stockett  
Ryan C. Stockett  
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